

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

IN RE:	:	Case No. 24-90577 (ARP)
	:	
NORTHVOLT AB, et al.	:	Chapter 11
	:	
<i>Debtors.</i>	:	

**LIMITED OBJECTION AND RESERVATION OF RIGHTS TO THE ENTRY OF A
FINAL ORDER AUTHORIZING DEBTOR IN POSSESSION FINANCING**

Thermo Fisher Scientific Messtechnik GmbH (“Thermo Fisher”) files this Limited Objection and Reservation of Rights with respect to the entry of a final order granting the *Debtors’ Emergency Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* (Dkt. 58) and states as follows:

1. Northvolt AB and the related debtors (the “Debtors”) filed their chapter 11 petitions on November 21, 2024.¹
2. On November 21, 2024, the Debtors filed their Motion requesting, *inter alia*, Court approval of a superpriority senior secured debtor-in-possession delayed draw term loan facility in the aggregate principal amount of \$100 million (the “DIP Facility”). See Dkt. 27.
3. The Court entered its interim Order (Dkt. 58) with respect to the DIP Facility.

THERMO FISHER’S AGREEMENTS AND TITLE RIGHTS

¹ Northvolt Ett Expansion is a debtor in a bankruptcy proceeding in Sweden.

4. The Debtors and Thermo Fisher are parties to numerous contracts and agreements which provide for *inter alia* sale, installation, and servicing of goods and equipment, and other servicing and certification services by Thermo Fisher on both a pre-petition and post-petition basis to Debtors' facilities (and/or Debtors' affiliates' facilities) in Sweden.

5. By way of example, (a) Thermo Fisher performed a service visit this week to perform work on site pursuant to a purchase order with Northvolt ETT AB “(Northvolt Ett”) whereby Thermo Fisher provides parts and performs service work on-site related to CE Marking for which € 178,800 is due from Debtors, (b) Debtors and Thermo Fisher are parties to a Product Support Agreement with Northvolt Labs AB which is a 2-year agreement to perform regularly scheduled maintenance visits in 2024 and 2025, (c) Thermo Fisher and Northvolt ETT are counterparties to a 3 year Resident Engineer Agreement where a Thermo Fisher engineer resident on-site performs scheduled equipment maintenance, repairs as needed and includes a consignment inventory of spare parts located in the factory, and (d) Thermo Fisher, under a December 2022 Supplier Nomination Letter between Debtor Northvolt AB and Thermo Fisher (the “Supplier Nomination Letter”) has acted as a supplier to Northvolt Ett Expansion AB and to various Debtor Affiliates who are able to issue Purchase Orders under the Supplier Nomination Letter. As of the Petition Date, unpaid amounts due to Thermo Fisher with respect to the foregoing included, *inter alia*: (x) Sums Invoiced and Unpaid in excess of €1.1 million; (y) Sums Due and Payable due to completion of milestones prior to bankruptcy filing but not invoiced at the time of bankruptcy filing of almost € 800,000, and (z) Remaining Open Sums due for equipment ordered and/or delivered under Purchase Orders where milestones are not yet met.

6. With respect to goods and equipment sold and not paid for, under the Supplier Nomination Letter and applicable Swedish Law, ownership of delivered goods does not transfer

to the counterparty until paid in full. This applies to equipment and goods delivered to Northvolt ETT Expansion who is in a bankruptcy proceeding in Sweden, as well as to other Debtors located in or with assets in Sweden. For purposes of the proposed Final Order here, that would include Northvolt Labs AB (“Northvolt Labs”) whose contractual obligations to Thermo Fisher are approximately € 120,000 and Northvolt Ett whose contractual obligations to Thermo Fisher are in excess of € 1 million. The title retention rights of Thermo Fisher are valid and enforceable under Swedish law.

THE PROPOSED FINAL DIP ORDER IMPAIRS AND DISPLACES THERMO FISHER’S RIGHTS WITHOUT ADEQUATE PROTECTION IN VIOLATION OF THE BANKRUPTCY CODE AND OTHER LAW

7. With respect to the DIP Facility, the DIP Financing Order provides a proposed superpriority lien in favor of the DIP lender, which if approved arguably voids and displaces Thermo Fisher’s valid and senior rights on certain assets. The DIP Order does not carve out an exception to the priming lien except for certain specified junior lienholders which are not defined in a manner that would include Thermo Fisher.

8. Furthermore, because the Debtors have not filed their Petition and Schedules, the value and extent of the Debtors’ assets are unknown and thus the value and extent of the Thermo Fisher’s rights in goods and equipment are unknown.

9. Accordingly, Thermo Fisher files its limited objection to making the Interim Order final to the extent it proposes to displace and/or subordinate the Thermo Fisher’s Swedish rights, title and interests to a \$100 million lien, without providing adequate protection or payment rights, including a non-subordinated administrative claim to Thermo Fisher.

10. A simple fix to the proposed Order would provide that all of Thermo Fisher's rights including its Title Retention Rights, are not affected, impaired or subordinated, to the extent, priority and validity of those rights as of the Petition Date.

11. If Debtors and its affiliate counterparties perform under their contracts with Thermo Fisher, these issues become moot.

12. Thermo Fisher reserves all of its rights with respect to all contract obligations and all goods and equipment and services supplied pre-petition, and their ongoing rights with respect to goods, equipment and services being supplied post-petition and with respect to any contractual rights against Debtors or related to the supply of goods and equipment and other services by Thermo Fisher to the Debtors.

13. Thermo Fisher reserves the right to amend or supplement the foregoing objections, to join in other objections filed and to further revise and/or amend the foregoing, or to seek adequate protection or relief from stay, an administrative expense claim, or to enforce other rights and remedies under applicable law, or otherwise authorized by the Court.

WHEREFORE, the Thermo Fisher respectfully requests this Honorable Court condition the entry of any DIP finance order on the preservation and reservation of the rights, title and claims of Thermo Fisher on an unimpaired and unsubordinated basis with respect to (i) equipment and goods supplied to the Debtors both pre-petition and post-petition, (ii) Thermo Fisher's rights to an administrative claim, and, (iii) performance under any executory contract, and (iv) any other rights or claims that may be applicable, and also that this Court grant such other and further relief as the Court deems just and proper.

Dated: December 11, 2024

Respectfully Submitted,

/s/ Beverly Weiss Manne

Beverly Weiss Manne (PA 34545)

TUCKER ARENSBERG, P.C.

1500 One PPG Place

Pittsburgh, PA 15222

(412)594-5525

(412) 594-5619

bmanne@tuckerlaw.com

Kyle Woodard

KANE RUSSELL COLEMAN LOGAN PC

901 Main Street, Suite 5200

Dallas, Texas 75202

(214-777-4296)

kwoodard@krcl.com

*Counsel for Thermo Fisher Scientific
Messtechnik GmbH*